

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
Version 2 Comment Chart**

Name	Professional Title	Affiliation	Support/ Oppose	Comment
County Responses				
1.	Ms. Shirley Bianchi	Chairperson	San Luis Obispo Board of Supervisors	<p>Oppose</p> <p>While we are supportive of collaborative efforts between counties and courts in the selection and evaluation of chief probation officers, we object to the model proposed. In San Luis Obispo County, we the Board of Supervisors is the appointing authority for the chief probation officer. We consult with superior court judges regarding the appointment and request feedback on the performance of the chief probation officer. However, the legal authority to appoint the chief probation officer correctly rests with the board. The board is the entity that provides the funding for and approves the probation department budget, and rightly has the final authority over the hiring and evaluation of the chief probation officer.</p> <p>The model proposed by the task force essentially provides the court equal footing in selecting and evaluating the head of a county department, without also accepting a concurrent equal share of the cost for department operations. While the model is intended to coerce cooperation between the entities, it is just as likely to promote stalemates that can lead to operational dysfunction. Furthermore, the proposed model does not remedy, and we believe makes worse, the situation where the chief probation officer is responsible to two different entities that often have different objectives. This proposal is a recipe for failure.</p> <p>The county opposes both versions of the task force models until such time that the court is willing to accept the responsibility for funding probation department operations.</p>
2.	Mr. Patrick Blacklock	County Administrative Officer	Amador County	<p>Oppose</p> <p>Amador County continues to believe a collaborative process for the recruitment and selection of the chief probation officer is not only appropriate, but necessary. As stated in earlier responses, the most recent appointment of the chief probation officer utilized a collaborative approach. While the proposed collaborative approach can improve stakeholder participation and ownership, it does not answer managerial and budgetary control conflicts.</p> <p>A collaborative approach to the recruitment and selection is a great start. However, evaluation of the chief probation officer by a committee of people does not seem appropriate. Committees overseeing one person may not provide a clear, concise, confidential and consistent form of evaluation. This does not promote organizational efficiency. The task force may want to suggest a structure which would place the chief probation officer and the department wholly within the courts or the counties. This is a point worth considering since only 2 states, California and Indiana “receive primary funding exclusively from local government”; therefore, the burden of funding should be with the agency having authority.</p> <p>Amador County also feels the suggested requirement to create an MOU for each county except those charter or civil service merit counties is not sensible. This could create a system which in effect can have potentially fifty nine processes that could change when a special interest suggests a stipulation to the MOU. This seems unreasonable and inefficient.</p>
3.	Mr. Bart Bohn	County Administrative Officer	Fresno County	<p>While the model moves toward a more collaborative model, it stops short of developing that process as was included in your original version 1 model (which was supported through our letter dated August 16, 2002).</p> <p>Given the joint responsibility of funding and administering the probation department’s operations, we continue to stress the appropriateness of both the county and the courts to also share in the appointment, evaluation, discipline, and removal of the chief probation officer. We therefore encourage you to move toward a collaborative model statewide thereby simplifying the implementation process.</p>

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4.	Ms. Ann Capela	County Executive Officer	Imperial County		<p>As Imperial County Executive Officer and as the President-Elect of National Association of County Administrators and to be consistent with the intent of the ordinance under which the CEO serves in Imperial County:</p> <p>The appointment committee which would consist of representation of the County and Judges:</p> <p>The appointee representing the county should be the County Administrator/Executive Officer.</p> <p>In most of the county structures the department heads report to the CAO/CEO. The budget recommendation and supervision authority is in the ordinance that appoints the CEO. Thus, it is my recommendation that the member of the nomination and performance review be assigned to individual County Executive/Administrative Officer. This would facilitate the stability and allow this position to be filled based on qualification and skill as opposed to what may or most likely be a “political” appointment.</p> <p>The CAO/CEO will be the most knowledgeable on performance issues. Most of the elected officials do not have the day-to-day knowledge on performance, how can they effectively judge performance?</p>
5.	Ms. Penelope Clarke	Administrator	County of Sacramento, Public Protection Agency	Oppose	<p>Both the Tier I model, requiring a memorandum of understanding to formalize a collaborative process for selecting evaluating and disciplining a chief probation officer and the Tier II default model, offer commendable methods for engaging both the county and the court in the decision making processes of selection, discipline and evaluation of a chief probation officer. However, the methods ignore the awkwardness for the chief probation officer if/when two directors give contradictory directions. Such a situation often occurs during difficult financial times.</p> <p>Sacramento County continues to prefer the selection process currently used by the county for appointing agency administrators and department heads. The county executive performs the selection process, which is then subject to confirmation by the board of supervisors. Appointments made in this way provide the county with consistency in employment, and maintain unity of direction towards countywide goals. It also provides the department head (in this example, the chief probation officer) a level of support when finances and service delivery demands are in conflict.</p> <p>It is acknowledged that the Tier I and Tier II models are interim models aimed at fostering collaboration between courts and counties. Both provide greater involvement than current processes; however, it is hoped that the task force will continue to consider the option of making the county the sole appointing authority and seek other ways, which are less austere to the chief probation officer, to increase court/county collaboration.</p>
6.	Mr. Larry T. Combs Mr. Curtis R. Coad	County Administrative Officer Assistant County Administrator	Sutter County	Support	<p>This office earlier commented upon, and supported, the Probation Services Task Force’s interim model for the appointment, evaluation, discipline, and removal of the chief probation officer.</p> <p>Given this background, please be informed that we have reviewed the task force’s revised interim model, and find it preferable to the original proposal. The revised interim model provides local courts and counties with additional flexibility, and recognizes arrangements which have already been voluntarily and cooperatively made. Consequently, we support it.</p>
7.	Ms. Helene Franchi	Management Analyst	Napa County Executive Office		<p>The collaborative effort between the court and the Napa County Executive Office is a success. We do not see any reason to revise the current system and would oppose adoption of this version.</p>
8.	Mr. Dennis Hansberger	Vice-Chairman	San Bernardino County Board of Supervisors	Oppose	<p>On August 6, 2002, the San Bernardino County Board of Supervisors submitted a letter indicating our interest in broadening participation by local elected officials. Specifically, we recommended “that the model offer each county and court the option of subjecting decisions regarding appointment and removal of the chief probation officer to a majority vote of the board of supervisors and the judges (with further discretion by the court regarding whether to require approval of the full bench or an executive committee).”</p> <p>Version 2, as proposed by the Probation Services Task Force, does not accomplish this purpose. In the event that an MOU is not developed locally, the proposed “Default Model” continues to vest appointment/removal authority solely with the court (as the current appointing body). By retaining the status quo, this approach would not unify authority and responsibility for management of probation functions.</p> <p>The San Bernardino County Board of Supervisors continues to support a process by which the court and county equally share authority and responsibility for appointment, evaluation, discipline, and removal of the chief probation officer. Absent a decision by the state to assume financial responsibility for probation functions, the default model in version 2 does not sufficiently address our board’s concerns.</p>

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9.	Mr. Manuel Lopez	County Administrator	San Joaquin County	Oppose	<p>Probation is a key component of the county criminal justice system. Counties have tremendous management, labor relations, facilities, and financial responsibilities related to the operation of the probation department. For a number of years, the San Joaquin County Board of Supervisors has been concerned about bearing the responsibilities for Probation services without having adequate control and authority over its department head.</p> <p>Since 1998, following the passage of the Trial Court Funding Act of 1997, the county’s annual legislative platform has included a plank with the following language:</p> <p>Support legislation to include all Probation functions in the definition of court operations for State trial court funding purposes OR support legislation to make the Chief Probation Officer an appointee of the Board of Supervisors.</p> <p>This solution was intended to align authority with responsibility for Probation services.</p> <p>The proposed Interim Model is NOT acceptable as either a short-term or long-term solution to this issue. If the local court and its associated county have a strong working relationship and if the court is willing to cede a significant amount of control over the appointment process to the county, the Interim Model could be a workable option. However, a more likely scenario is that the local court would have no incentive whatsoever to come to agreement with the county regarding the appointment process. The court may not negotiate with the county in good faith because the default option under Tier II of the Interim Model allows the court to retain its appointment authority over the chief probation officer and be the final decision-maker on all personnel actions related to the chief probation officer. Although Tier II does allow the court and the county to jointly conduct an annual evaluation of the chief probation officer and requires the county to concur with the court if negative personnel actions are to be taken against the chief probation officer, this is not enough improvement over the current situation. The county would have an equal voice with the judiciary in nominating candidates, but the court would retain its status as final appointing authority. The county could only recommend, but not insist on, personnel actions affecting the chief probation officer.</p> <p>As indicated above, the board of supervisors has an adopted legislative platform that seeks to transfer responsibility for probation services to the state or to authorize the board of supervisors to appoint the chief probation officer. Inasmuch as the revised Interim Model does not conform to the board’s legislative platform, it is hereby rejected.</p> <p>We would also like to provide a few technical comments on provisions within the model:</p> <p>1. In Item #2 under Tier 1, the model says that the MOU developed between the court and the county shall include a statement that “the MOU remains in effect until such time as it is superseded by a new agreement or rescinded by either the court or the county.” Since the Probation Services Task Force plans to introduce a long-term governance model that would eventually be codified in statute, we believe this section should be re-worded to read, “until such time as it is superseded by a new agreement, rescinded by either the court or county, or is superseded by new legislation that enacts a different methodology for hiring, discipline, and removal of the chief probation officer.”</p> <p>2. In Item #1 under Tier 2. It is time to remove the juvenile justice commission from involvement in the selection of the chief probation officer. The Juvenile Justice Commission is made up of members of the community, including youth representatives, who may have little or no experience in interviewing and hiring personnel. They may not have an adequate understanding of the complexities of the position of chief probation officer, nor an adequate appreciation of the delicate balance between the needs of the judiciary versus the needs of the county. Why is a citizens’ group involved in choosing a department head?</p> <p>The original July 2002 Collaborative Model for the appointment of the Chief Probation Officer was a better solution than this Revised Interim Model. The Probation Services Task Force should return to the Collaborative Model as its short-term governing structure until the Task Force can complete its work on crafting a California Model to serve as the long-term solution for governance of probation services. Neither the Collaborative Model nor the Revised Interim Model should be indicative of the format of the future California Model.</p> <p>The County of San Joaquin could only support the Revised Interim Model as the short-term governance solution for probation services if the former Collaborative Model is inserted as the Tier II default model.</p>

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	Mr. John L. Maltbie	County Manager Clerk of the Board	County of San Mateo		<p>(Comments received on November 14, 2002) Both the initial model and subsequent two-tier approach fall short of improved citizen accountability. Both approaches disregard what may be the more significant alternative to align authority and function of probation appropriately to the state. With trial court realignment of judicial positions followed most recently with facilities, the logical next step is alignment of court functions. Probation services are a court function.</p> <p>In the past, the County of San Mateo has expressed support of legislative efforts to align the authority of counties and the courts, due in no small part to the \$604,000 in claims brought against the probation department, including sexual harassment charges against a former chief probation officer, which required payment by the Board of Supervisors, not the courts. Increased cynicism of government is, at least in part, attributed to real and perceived lack of accountability. It is inappropriate to assign financial responsibility to the County Board of Supervisors for behavior of unaccountable personnel.</p> <p>The revised two-tier model provides for a shared selection process that includes participation by the county and the courts. While collaboration is critical to many successful programs and services, it generally involves financial stakeholders. In the example of probation, there is a disconnect between the courts which rely on probation services and the county which is required to pay for the services. Such a shared selection process continues bifurcated accountability for a chief probation officer.</p> <p>The County of San Mateo respects the serious effort of the Probation Services Task Force to develop a model for the appointment, evaluation, discipline, and removal of the chief probation officer. The revised two-tier model presents an incremental improvement, but falls short of aligning financial and program responsibility to ensure accountability.</p>
10.	Ms. Susan A. Mauriello	County Administrative Officer	Santa Cruz County		<p>Santa Cruz County does not have a local process, so would be operating under the Tier II model as described in your memo. As I understand it, the purpose of your models is to balance the competing interests regarding the probation governance structure. Essentially, you are proposing that the chief probation officer's appointment, evaluation, and removal would be the joint responsibility of a committee composed of members representing the court and the county in equal numbers.</p> <p>This model would have the advantage of giving the counties a theoretically equal say in appointing, evaluating, and removing the chief probation officers. However, it does not address the primary concern of counties which is that accountability to the courts and fiscal responsibility should be united through a single command structure.</p> <p>As I have stated in my previous letters to you, the optimal structure would be to have the probation departments and their budgets transferred to the state and placed under the supervision and direction of the local court. Fiscal authority for all functions, including staff, facilities, etc., would be consolidated with the courts, eliminating the current inevitable conflict.</p> <p>Another possible resolution would be to place the chief probation officers under the supervision of the county administrative officers. It would be very appropriate for such appointments to require the concurrence of the courts, as described in your revised model. This would at least provide some administrative oversight over a department head who is responsible for a significant portion of the county budget.</p> <p>Unfortunately, the proposed model goes no further in addressing the concerns we had with the previous model. The revised model still does not provide a united command structure and would not resolve the current tension incumbent in requiring chief probation officers to implement court directions within an insufficient budget. While having a court/county committee jointly responsible for hiring, evaluating, and removing the chief probation officer would provide the counties with additional authority, this system would not resolve the structural weaknesses of the current system.</p>
11.	Ms. Lynne Margolies	Personnel Director	County of Lassen	Support	I think your model took into account all of my comments and is excellent. Thanks for all the work.

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12.	Ms. Eileen Melson	Stanislaus County Chief Executive Office	Stanislaus County Chief Executive Office		<p>While we are commenting on version 2, please understand that Stanislaus County continues to take the position that as long as the funding for all of probation services is the responsibility of the board of supervisors, then the appointment and retention of the chief probation officer should be the responsibility of the county, not the court. Nevertheless, here are our comments.</p> <p>Tier I: Development of an MOU probably would work in our county if we have no other option.</p> <p>Tier II:</p> <p>Appointment: We would not want the "... members of county government ..." limited to the board of supervisors. We suggest there should be some latitude in determining who the appropriate members of the nominating committee should be. In section #2, what happens if the nominating committee does not "unanimously approve all candidates forwarded to the appointing entity"? Why can't it be that if there is not unanimous agreement the committee can refer the top candidates? You understand our view of #3. The county should appoint.</p> <p>Evaluation: This would be acceptable, so long as it is clear the county has the authority to implement any type of merit pay increase, not the court.</p> <p>Personnel Actions (Discipline and Removal): Again, considering our overall belief the county should be the appointing authority – we could live with this.</p>
13.	Mr. Ron Piorek	Deputy County Administrative Officer	Sonoma County		<p>1. The "Version 2" proposal seems to us to be a step backwards from the original proposal.</p> <p>The Version 2 proposal appears difficult to support because the "rescission provision" seems to provide the opportunity for unilateral court decision-making whenever the court is not in concurrence with the county on the issue of terminating a CPO appointed pursuant to a Tier I agreement.</p> <p>For example: If a county and the court reached a Tier I Agreement whereby the county would have appointment and termination authority regarding the CPO position, the court could simply thwart an effort of the county to terminate this person by exercising the unilateral rescission provision. By exercising the rescission provision, the termination rights would require the concurrence of the court, rendering the Tier I agreement meaningless.</p> <p>2. Item 3 under "Appointment" in Tier II references the "entity that currently retains appointment authority". To what point in time does the word "currently" refer. Is it the date the legislation is enacted, or in the case of a rescission of a MOU, does it refer to the party having made the then- current appointment under a Tier I model. Advancing to a point in time in the future when Tier I models would be in place, it would seem to be practical to define "currently" as the most recent party which has had appointing authority responsibility, as that party may be different than the one which had appointing responsibility at the time the legislation passed.</p> <p>3. Item 1 under "Personnel Actions" of Tier II poses the same issue described above regarding the definition of the word "currently". What point in time is that word intended to reference when read 10 years from now?</p> <p>4. The recommendations fail to address liability issues arising to the county resulting from the court's appointment of the current incumbent CPO where that responsibility is currently exercised by the court, or would revert to the court under Tier II.</p> <p>5. The legislation should give counties the option of separating responsibility for the operation of juvenile institutions (juvenile halls, ranches and camps) from the probation officer and place these functions under a county employee. This is a major liability item and may be a sticking point making resolution of the probation officer status difficult for some counties.</p> <p>6. The time provided to us to review this model between the date of receipt and the submission of comments (less than 3 days) did not allow for a thorough analysis nor any internal dialogue between the stakeholders which could have improved the value of our response.</p>
14.	Ms. Anita Reis	Management Analyst	Placer County Executive Office		<p>Although this model does not apply to Placer County since it is a charter county, we respectfully request that the Task Force reconsider the inclusion of #3 under Personnel Actions (Discipline and Removal) as part of the Default Model. This section states that the "entity with the appointing authority may not take negative personnel actions against the chief probation officer without the approval of the other party." It appears to contradict #1 which cites that the "entity currently responsible for personnel actions against the chief probation officer would retain that authority."</p>

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15.	Mr. Mark J. Riesenfeld	County Administrative Officer	Marin County	Oppose	Although Marin County recognizes the importance of a cooperative working relationship with the courts, the Marin County Board of Supervisors continue to maintain the position that the hiring and evaluation of the chief probation officer should reside with the board as long as probation services remains a locally-funded responsibility. Therefore, the county would oppose this revised model.
16.	Mr. George Roemer	Senior Deputy County Administrator	Contra Costa County	Support	Contra Costa County supports both the original and revised models. We believe that both strategies are workable, and either would provide assistance to counties regarding probation governance issues and the appointment and retention of the chief probation officer. We offer two comments on the revised interim model: (1) Both “Tiers” should include language to ensure a statewide, open and competitive appointment process for the chief probation officer and (2) Tier II includes a “screening process involving the juvenile justice commission.” It would be beneficial if the standard of involvement for the juvenile justice commission were more clearly articulated.
17.	Mr. Gil Solorio	County Administrative Officer	San Benito County	Support	San Benito County supports the Revised Interim Appointment / Removal Model submitted for comment. However, this support is given with the understanding that appropriate code changes will be implemented so as to allow for a Tier I scenario wherein the county assumes authority for appointment of the chief probation officer.
18.	Mr. Brent Wallace	County Administrator	Tuolumne County		I assume that both the proposed interim model (version 2) and the default model will be placed into legislative language and adopted into the code. If not, it is my belief that there would be little incentive for some counties and courts to adopt either the interim or default model. Since the appointment, evaluation, etc., of a chief probation officer is an issue, it makes sense to codify the proposal and allow counties/courts to pursue the best option as they deem appropriate.
	Mr. Robert Westmeyer	County Counsel	Napa County		(Comments received on November 14, 2002) While the Model seems fair enough, I would hope in the legislation you are going to amend and revise the W&I and Penal Code provisions relating to County Chief Probation Officers (adult and Juvenile). Those sections are hopelessly out of date considering the court consolidations that have occurred in the past few years. They are inconsistent with each other. Finally, to say they are poorly worded can only be described as the ultimate understatement. As far as I can tell, ignoring Charter Counties and that infamous Charter City/County for the moment, most if not all appointments of Chief Probation Officers where there is a single CPO in my view are invalid since it is impossible to comply with both the W&I and Penal Codes in the appointment process! Nor can you tell when the section(s) are referring to the CPO and when they are referring to Deputy POs.
19.	Mr. Andy Whiteman	County Administrative Officer	Lassen County	Oppose	The Lassen County Board of Supervisors strongly believes that the chief probation officer should work under the authority of the supervisors. The board of supervisors is concerned about the financial and legal exposure to the county from the actions of an appointed official/department head that does not report to the board. If the Probation Services Task Force recommends the proposed version 2 model, the Lassen County Board of Supervisors believes that the Memorandum of Understanding between the courts and the county should clearly define the legal and financial responsibilities of the appointing authority. If the courts choose to supervise the probation department, they must take the responsibility for the actions of the employees.

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20.		Los Angeles County Chief Administrative Office		<p>The Task Force's revised interim model (Version #2) would not be applicable to Los Angeles County. However, as in prior occasions, we are taking this opportunity to provide our comments.</p> <p>FEASIBILITY OF PROPOSED MODEL</p> <p>As indicated in our previous response, although the proposed model may be feasible in any county, (including Los Angeles County, if it were a non-charter county), it is necessary to recognize that a collaborative effort regarding probation service delivery in Los Angeles County continues to exist with our court. Since overall probation management and fiscal responsibility remain with the county, decisions on appointment, evaluation, discipline and removal of probation officers should remain with the County Board of Supervisors.</p> <p>In addition, although we recognize that modifications to certain areas in the delivery of probation services are necessary, at this time, we do not perceive a sense of friction between our probation and court operations regarding the governance structure.</p> <p>Given unique county characteristics, the proposed model (Version #2) appears to be a flexible and viable approach to assist those courts and counties in the short-term in formalizing and addressing probation governance issues, through the intended collaborative development of memoranda of understanding.</p>
21.	Hon. Rene Chouteau	Judge	Support	Both the local process and the default model address the concerns which I raised in my prior letter.
22.	Hon. Michael T. Garcia	Presiding Judge	Oppose	The Sacramento Superior Court is opposed to version 2 of the chief probation officer model for the same reasons as stated in the court's letter of 16 August 2002.
23.	Mr. Mike Glisson	Superior Court of California, County of Nevada	Support	Per our discussion today, on behalf of the Presiding Judge of the Nevada County Superior Court, we agree with the proposed changes regarding the selection of Chief Probation Officers. We agree that the best policy is for local courts and counties to negotiate a MOU.
24.	Hon. Nazario Gonzales	Judge		<p>Some observations and suggestions regarding the hiring and firing of a chief probation officer as outlined in the default procedure:</p> <p>Tier II: Appointment</p> <p>Para 2: Requiring unanimous approval for submitting nominations of a candidates for the position of a chief probation officer will result in a veto to either party, the appointing authority (the court) and the non-appointing authority. This will result in compromise candidates being nominated, and not necessarily the best candidate being nominated for the position. Also, by requiring unanimous approval, the power of the appointing authority is diminished, especially if only one nominee is forwarded to the appointing authority. I suggest that all nominees be approved by at least 3/4 of the nominating committee members.</p> <p>Tier II: Evaluation</p> <p>Para 3: Again the non-appointing authority has a veto over the dismissal or disciplining of the chief probation officer. Clearly, one voice should have the authority to dismiss or discipline the chief probation officer. Otherwise, a chief probation officer might manipulate and control his tenure to maintain his/her position despite a lack of confidence in the chief probation officer by the court, which might arise over labor and management disputes, enforcement policies, personnel conflicts (assignment of probation officers, for example), or whatever limits or restricts the court fully controlling operations that directly affect the courts. The appointing authority, especially the courts, should have the ultimate say on this issue. Of course, this does not preclude the appointing authority from consulting with and seeking the non-appointing authority's input.</p>

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25.	Hon. Susan C. Harlan	Judge	Superior Court of California, County of Alameda	Oppose	As you know we truly have a collaborative process already in place in Amador County (at least concerning the selection of the chief probation officer). Our system continues to work well, at least for the moment. The real issue as I see it, is that the chief probation officer gets his/her marching orders from the judges yet the county continues to be responsible for paying for it (which is a continuing source of irritation). I strongly feel that probation should be part of the courts similar to Family Court Services. The courts deal with probation on a day to day basis. The Board of Supervisors sees them once a year at budget time. I understand that one of the stumbling blocks is who assumes the juvenile halls, etc. Perhaps the juvenile halls are more appropriately shared with the state and the counties. Local control in terms of running the facility, yet statewide coordination of needs, programs (drug, sex offender, out of control parents or kids), funding, evaluations etc.
26.	Hon. Gary D. Hoff	Presiding Judge	Superior Court of California, County of Fresno	Oppose	<p>Although this may not be the case in other courts/counties, the Superior Court of Fresno County continues to support the status quo. The judges have the authority and responsibility to appoint an remove the CPO while the county maintains the purse strings for the Probation Department. We may have an occasional difference of opinion, but the court believes that is to our mutual benefit and advantage to work together rather than create a system that may become divisive. In my personal opinion, we are able to work together because each branch of government has separate and distinct duties. If these duties were merged there could be an impasse where one entity could not proceed without the other. For example, I believe the court could be significantly hampered in its efforts to work toward the rehabilitation of delinquent minors if the court were to become involved in the political issue of funding.</p> <p>If the primary goal of version 2 is collaboration and team development between the courts and counties, then the court should have some voice on future probation department funding--whether is a proposed increase or decrease.</p> <p>The Superior Court therefore prefers the status quo rather than the version 2 model.</p>
27.	Hon. Jean Pfeiffer Leonard	Judge Chair, Probation Committee	Superior Court of California, County of Riverside	Oppose	<p>On behalf of the Riverside Superior Court, we sincerely request that you amend the model-version 2 to allow courts to continue pursuant to existing law. Existing statutes provide the best available governance structure for Riverside County.</p> <p>Our understanding of the model-version 2 is that all courts and counties would be required to function within one of two “tiers.” Both tiers include shared authority or mutual veto authority. Both tiers incorrectly presume that counties understand and respect the critical investigative and supervisory duties performed by probation departments. That has not been the case in Riverside County. Indeed, multiple statements have been made at the highest levels of county government that the county would, if permitted, severely reduce or completely terminate probation services.</p> <p>Under current circumstances, Riverside Superior Court is reduced to reliance on statutory authority. Although numerous examples and extensive data have demonstrated the value of probation services in Riverside County, funding commensurate with other justice system agencies or policy support has not been forthcoming. Each of the tiers would erode the court’s ability to require even the minimum level of probation services. As noted previously, our fervent wish is that county support for the probation department would make shared governance possible. However, until the county and court establish common grounds for communication and policy matters, the court’s statutory authority must remain intact.</p> <p>For these reasons stated above, we believe that courts must be allowed to decline both tiers until a foundation for joint governance is established. Further, statutory authority to order investigation and supervision services must remain in full force and effect.</p>
28.	Hon. Cindee Mayfield	Judge	Superior Court of California, County of Mendocino	Support	I agree with the procedures for appointment and evaluation of chief probation officers contained in “version 2” of the interim model. The approach balances the needs of local government with those of the court, and sets forth clear procedures to resolve conflict. I hope that your hard work will result in 2003 legislation clarifying this difficult area.

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29.	Hon. James Ruggiero	Presiding Judge	Superior Court of California, County of Shasta	Oppose	<p>As I am sure you are aware, in a general law county the chief probation officer is actually the juvenile probation officer who acts as chief probation officer and is appointed by the “judge of the juvenile court,” from a pool forwarded to him or her from the juvenile justice commission. (See Welfare and Institutions Code section 270 and Penal Code section 1203.5) The proposed default model would leave appointment authority, discipline and removal authority in the supervising judge of the juvenile court. Is this truly your intent?</p> <p>Also, getting a unanimous recommendation from the nominating committee as described in your default model might result in either inability to make recommendations or compromise recommendations of the least offensive candidates rather than the most qualified. I really do think the task force needs to resolve the tough question: In which single entity will the power of appointment, supervision, discipline and compensation lie? All else, it seems to me, will simply institutionalize the current morass.</p>
30.	Ms. Kiri Torre	Chief Executive Officer	Superior Court of California, County of Santa Clara	Support	<p>Agree with the revisions that allow existing collaborative local agreements to continue as described in Tier I: Formalizing the Local Process.</p> <p>Agree with the revisions that provide a default process in the event of a local impasse as described in Tier II: Following the Default Model, with one exception. Under Personnel Actions (Discipline and Removal), I believe that the language should be modified as stated below to avoid possible impasse on the critically needed personnel actions:</p> <p>3. The entity with the appointing authority may not take negative personnel actions (regarding employment status) against the Chief Probation Officer without the approval of the other party (the entity without appointing authority) <u>taking into consideration the position of the other party (the entity without appointing authority).</u></p> <p>The revised version with the suggested amendments provides a structure that will ensure that the chief probation officer is responsive to the needs of the court to better serve the public.</p>
31.	Hon. Richard Turrone	Presiding Judge	Superior Court of California, County of Santa Clara	Support	<p>I agree with the revisions that allow existing collaborative local agreements to continue as described in Tier I: Formalizing the Local Process</p> <p>B. Tier II Appointment: I agree with the revisions that provide a default process in the event of a local impasse with the following exceptions:</p> <p>Appointment: Paragraph 2, which requires members of the nominating committee to unanimously approve all candidates forwarded to the appointing entity can result in a veto by either party. This can result in compromise candidates being nominated, and not necessarily the best candidates. Also, by requiring unanimous approval, the power of the appointing authority is diminished. I would suggest that all nominees be approved by at least 2/3’s or 3/4’s of the nominating committee members.</p> <p>Personnel Actions (Discipline and Removal): I recommend that Paragraph 3 be amended to read as follows: “The entity with the appointing authority may not take negative personnel actions (regarding employment status) against the chief probation officer without taking into consideration the position of the other party (the entity without appointing authority).”</p> <p>This suggested amendment to the revised version provides a structure that will ensure that the chief probation officer is responsive to the needs of the court and thereby better serve the public. To give the non-appointing authority a veto over the dismissal or discipline of the chief probation officer could result in unacceptable and bizarre circumstances where the appointing authority lost complete confidence in the chief probation officer and yet would have their hands tied to remedy the problem.</p>
32.	Hon. J. Michael Welch	Presiding Judge	Superior Court of California, County of San Bernardino	Support	<p>I endorse the Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model – Version 2. This version has in it the requirement that the court and county meet and confer on this very important issue and attempt to reach an agreement on the local level.</p> <p>It ensures that issues of concern to individual counties and courts could be addressed in a tailor-made Memorandum of Understanding (MOU). Furthermore, I like the idea that the court and county would have up to 12 months in which to accomplish an MOU. Also, the idea that the MOU can contain any language as long as the parties agree on it makes the MOU a more meaningful local document.</p> <p>The suggestion that the counties and courts collaborate in this process insures that it would be an agreement that both would have a stake in.</p> <p>The default position is a meaningful one and one in which will force and agreement between the court and county on the Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
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	Name	Professional Title	Affiliation	Support/ Oppose	Comment
33.	Trial Court Presiding Judges Advisory Committee (TCPJAC) Executive Committee			Support	The TCPJAC Executive Committee carefully considered the proposal and supports the revised model as circulated on October 10, 2002. The Executive Committee commends the Probation Services Task Force for adopting a two-tier model, which preserves court/county collaboration in the delivery of this critical service and establishes a default model in the event that the court and county are unable to reach an agreement.
34.	Mr. Bill Burke	Chief Probation Officer	Humboldt County Probation Department		<p>There is a great deal of concern about these “assumptions.” It might be worthwhile to go beyond “assuming” the last two (charter counties and incumbent chiefs) and actually include all three assumptions as “provisions.”</p> <p>Under Tier II:</p> <ol style="list-style-type: none"> 1. allows for re-introduction of JJDPCs. I’m not clear on the rationale for this (although I don’t disagree with it). It appears under Tier I that JJDPC have intentionally been removed from the process, although it could be included in local MOU. 2. 3. If a party rescinds MOU there would be no “entity that currently retains appointment authority.” Does this mean that it goes back to appointing authority prior to passage of law, appointing authority from previous MOU’s if there were any, or something else?
35.	Mr. John Cavalli	Chief Probation Officer	Santa Clara County Probation Department	Oppose	This model has the same fundamental problem as the original July 2002 model in that no one including the chief probation officer can serve two masters. If it’s not broke don’t fix it and the current judicial chief probation officer appointment, evaluation, discipline, removal model in Santa Clara County works just fine.
	Ms. Susan J. Gionfriddo	Chief Probation Officer	Santa Barbara County Probation Department	Support	<p>I do believe this version is much improved and believe this should accommodate most everyone’s interests.</p> <p>I am hoping that the work of the Probation Task Force continues and am hopeful that the ultimate conclusion will be a state funding formula for probation services. If that is ultimately accomplished, I would assume the appointment process for the chief probation officer would be solidified with that funding model.</p> <p>I have noticed on the routing of the proposals that Juvenile Justice Commissions are not copied. Because the current statutes provide for their inclusion in the process I respectfully suggest that they should be included as current stakeholders in the process.</p>
36.	Ms. Cora Guy	Chief Probation Officer	Sonoma County Probation Department	Support	I have reviewed the proposal and, as a compromise, it looks acceptable to me as a CPO in Sonoma County.
37.	Mr. J. Christopher Hope	Chief Probation Officer	San Joaquin County Probation Department	Oppose	<p>The proposed tier one provision is an improvement over the July proposal, but it still does not address the fundamental question of the ongoing relationship among probation, the courts, and the county. Our primary concerns with the October 2002 model are as follows:</p> <p>Probation remains under the control of two independent entities, the courts and the county. This is a fundamental flaw in the proposed concept. A chief probation officer should be required to report to, and be held accountable by, only one entity.</p> <p>While Tier I would allow for a negotiated arrangement between the courts and the county, the presumption would be that the current dual master relationship would continue to exist in some negotiated form. A chief probation officer should be required to report to, and be held accountable by, only one entity.</p> <p>Tier II continues to create the potential for a tie vote in the event that the court and the board do not share a common perspective on matters involving the chief probation officer. As is often the case, the court and the board of supervisors can be on opposite sides of issues involving philosophy, policies, resources, or operation of the probation department.</p> <p>As probation is an arm of the court, a clean workable solution to this issue would be to treat probation in a similar fashion to the courts under trial court funding. Probation would be placed under the courts where it belongs, both operationally and fiscally, and counties would assume a maintenance-of-effort funding level which would be transferred annually to the state as is done with the courts.</p> <p>We would prefer to see a sound, long-term solution to this issue rather than a quick fix approach which fails to go to the heart of the matter.</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
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	Name	Professional Title	Affiliation	Support/ Oppose	Comment
38.	Mr. Bob McAlister	Chief Probation Officer	Mendocino County Probation Department		I believe that the proposal is workable, providing that the members of the “collaborative” have an understanding of the chief probation officer’s role as it relates to court functions and mandates (courts), and personnel and budget issues (county). It has been my experience that the courts and the county administration do not share the same understanding of how a probation department is operated. For as long as I can remember, the courts left the running of the department to the chief probation officer, who dealt with budgets, personnel assignments and discipline, and the everyday operation. In my county, the courts have recently taken an interest in personnel matters, such as transferring officers in assignments, with which they disagreed, but knew nothing of the reasons behind the transfers. What will be the approach for a “collaboration” to monitor the internal affairs of the department? Will the courts assume a more active role in operations of the department? Will the county be more fiscally aware of and cooperative with court mandated/ordered actions requiring funding from the local coffers, such as CYA commitments and diagnostic evaluations?
39.	Ms. Gail A. Neal	Chief Probation Officer	Mariposa County Probation Department	Support	I am pleased with the version 2 model. It allows those counties who wish to remain with their current system. It also affords the opportunity for an alternative means for those counties who are not currently satisfied with their appointment process. I appreciate that the Task Force genuinely considered our responses.
40.	Mr. Verne L. Speirs	Chief Probation Officer	Sacramento County Probation Department	Oppose	<p>My comment is directed to the Tier II Default Model, and more specifically to the evaluation process of the chief as outlined in that model.</p> <p>The Tier II model calls for a joint court and county annual evaluation of the chief probation officers. The evaluation process as suggested does not appear to be consistent with the other recommended approaches within Tier II dealing with various personnel actions that may be taken against the chief probation officer.</p> <p>As stated in the default model, the current entity responsible for personnel actions against the chief, will retain that authority. My position is that the authority, which is responsible for personnel actions against the chief, should also be the sole entity that conducts the annual performance evaluation of the chief. It is not consistent to change the single entity process and allow for some form of a “joint or combined” job performance evaluation.</p> <p>With the above concern raised, there may be further defects inherent in any “joint evaluation” model than may be agreed to by the county and the court. This would be whether the joint evaluation process is agreed to in an MOU or brought about by a default mechanism as outlined in Tier II.</p> <p>Specifically, it appears that having two branches of government evaluate the chief probation officer is potentially disparate treatment. To my knowledge, no other county department head is held to a higher standard, that of being evaluated by two independent branches of government. This arrangement is particularly troublesome when, in fact, the goals of the separate entities may be in direct conflict. For example, the Courts may require the Chief to provide expanded sentencing alternatives and the county board of supervisors may be demanding major funding and personnel cuts in probation services.</p> <p>No department administrator can answer to two independent masters. A “jointly conducted” evaluation of the chief by two separate branches of government is not a sound personnel practice, and thus fraught with problems.</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
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Name		Professional Title	Affiliation	Support/ Oppose	Comment
Other					
41.	Dr. Cecil E. Canton	Chair	County of Sacramento Juvenile Justice and Delinquency Prevention Commission	Oppose	<p>In our opinion, this model creates a bifurcation of both reporting and command responsibilities, which, in effect saddle the chief probation officer with having to serve and satisfy two masters, each with a necessarily different raison d'être. To whom, then, would the chief be ultimately responsible? Fundamentally, we believe that the work products produced by the chief and his staff are for the use of the court and, therefore, the chief must be primarily responsible to that body.</p> <p>We also note that nowhere in the proposed model does the public appear to be represented or consulted. In the event that you decide to proceed with this model, we strongly recommend that a member of the public be included and required. We believe that there are compelling reasons for this addition. Not only could such a person serve to break a tie in voting, but also they would ensure that the process has access to an independent outside perspective, with no particular vested interest in its outcome.</p> <p>Finally, we wish to call the Council's attention to Section 270 of the Welfare and Institutions Code (WIC). Juvenile Justice Commissions currently have major statutory responsibilities in this area. Commissioners are citizen volunteers, generally unpaid and appointed for multi-year terms, guaranteeing their independences. They bring a valuable citizen's perspective – as well as an important emphasis on prevention and the needs of juveniles coming before the court – to the deliberations.</p>

Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model Version 2 Comment Chart

	Name	Professional Title	Affiliation	Support/ Oppose	Comment
42.	Mr. Ray W. Miller	Citizen		Oppose	<p>Version 2, for CPO selection, essentially makes no change. If responsibility, accountability, and authority remain at the local level for appointing the CPO, who is going to tell him/her what they are to do? In other words, what has changed other than the funding entity? The CPO will now have three bosses, the Court, the BOS, and the funding agency. Is this better?</p> <p>I have hesitated in the past to make this suggestion, but the PSTF seems to be looking for a compromise that maintains local control over the Probation function. I do not say CPO, because it is not the person, it is the function that is of importance. For those who may be familiar, I am speaking about Matrix management. I am not personally fond of this type of management, but I have seen it work. It is primarily used in industry when a company typically has several projects going on at one time. The primary functions/departments are centralized for administration and expertise. Each project is assigned personnel from each function/department to perform that particular expertise. Their day to day activities are managed by the project administration, however, the process and procedures to accomplish their particular function, and its expertise, comes from the centralized department.</p> <p>In our case, you can look at State Probation as a centralized department performing various functions, such as adult supervision, juvenile supervision, juvenile hall administration, and so on. The Counties would be the various projects. The centralized functions would provide the Counties with the necessary expertise. The CPO would manage these employees, and answer to the County and Local Court (Project Leaders). To simplify, I will translate the concept as it might apply to probation:</p> <p>A. There would be a Probation Department at the State level. The Department would be responsible for the following:</p> <ol style="list-style-type: none"> 1. Establishing Command Media (Policies, and Procedures) for basic operation of the probation effort. 2. Training 3. Establishing measurable standards, and track progress. 4. Administration over all probation employees. This includes promotions and discipline. 5. Automated System development, training, and maintenance. 6. State Funding Proposals and distribution of funds. 7. Administration of Placements. 8. Any other function that is deemed better manage centrally. <p>B. Each County would have a CPO, who would answer to the BOS and Court on day-to-day activities. The CPO would ensure that no basic probation principles, policies or procedures are violated, and that direction received from the BOS/Court is within the scope of the probation budget. Disputes would be elevated if they are unable to be resolved at the local level.</p> <p>C. The CPO for each county would be responsible for submission of budget proposals to the State Level. Through collaboration (working with) with the local Court and the BOS, the CPO will set objectives/goals for the year, according to their individual Strategic Plan as it meets the State Strategic Plan, goals and objectives.</p> <p>In essence, this maintains the CPO as the local expert on Probation, and allows him/her to have a more consulting type relationship at the county level. The BOS and local Court have local control over the CPO, but the CPO is restricted by State Policies and Procedures. It becomes the State that fights the political battles. On the other hand, the BOS/Local Court may appeal to State level as well. The BOS/local Court could also request a CPO be replaced. This would allow the existing CPO to be reassigned when it is determined, by the State, that disciplinary action is not required. It would also allow for demotions and/or reassignments of any personnel.</p> <p>Advantages to the Matrix system that come to mind are as follows:</p> <p>(1) The approach to such issues as arming and work standards would be handled one time, and not 59 different versions. (2)The centralizing of grant writing would allow the distribution of funds to be better managed and outcomes to be managed and documented for future decisions on basic funding. This way there can be follow-through on successful programs and elimination of ones that do not have favorable potential. (3) Efficiency of scale is obtained in those tasks that fit centralization, while reducing these burdens from being managed by local departments. At the same time, freeing the local department to concentrate on services, rather than administration. (4) Although one might suggest that the CPO now has 3 entities to satisfy, I would suggest there is only one. That would be the evaluation based on the performance in meeting the measurable standards. The job becomes less political. (5) Implementation would be easier since the first task would be to centralize. This effort would not necessitate major disruption and phased in over time. All County CPO's would be responsible with the decisions and detail plans. Consultants would be made available to assist in this effort. CPO's would assign staff expertise to accomplish the planning and implementation. It would be a challenge to the leadership skills of the CPO's (6) Placements in the state would be better utilized, and supervision of placed offenders could be handled by the county in which the placement is located. This would improve efficiency and effectiveness, by allowing experience, expertise, and comprehensive evaluation with individual placements. (7) All probation personnel would receive the same training, and be able to go anywhere in the state, as needed.</p> <p>This has been a roundabout way to provide one version of CPO selection. My attempt was to show the importance of establishing organizational structure to accomplish the defined tasks prior to determining how to select a CPO. I really do not see the necessity to provide this direction to the counties at this time. It is terribly premature. Whatever direction is provided should include a caveat that this may change as you go through the PSTF process.</p>